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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-851]

Certain Preserved Mushrooms from the People's Republic of China: Final Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce

EFFECTIVE DATE: [Insert the publication date in the *Federal Register*.]

SUMMARY: On March 6, 2012, the Department of Commerce (the Department) published in the *Federal Register* the preliminary results of administrative review of the antidumping duty order on certain preserved mushrooms from the People's Republic of China (PRC).¹ Based upon our analysis of comments received from interested parties, we made changes to the margin calculations for the final results. Therefore, the final results differ from the preliminary results. The final dumping margin for this review is listed in the "Final Results of Review" section below.

FOR FURTHER INFORMATION CONTACT: Michael J. Heaney, or Robert James, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-2475 or (202) 482-0649, respectively.

¹ See *Certain Preserved Mushrooms From the People's Republic of China: Preliminary Results of Antidumping Duty Administrative Review, and Rescission in Part*, 77 FR 13264 (March 6, 2012) (*Preliminary Results*).

SUPPLEMENTARY INFORMATION

Background

On March 6, 2012, the Department published the *Preliminary Results* of administrative review of the antidumping duty order on certain preserved mushrooms from the PRC.² The period of review (POR) is February 1, 2010, through January 31, 2011.³ The review covers five manufacturers/exporters of subject merchandise.⁴ We analyzed (1) Blue Field (Sichuan) Food Industrial Co., Ltd. (Blue Field) and (2) Dujiangyan Xingda Foodstuffs Co., Ltd. (Xingda) as mandatory respondents.⁵ Three other companies filed separate rate certifications and qualified for separate-rate status.⁶

In the *Preliminary Results*, we invited parties to comment.⁷ On April 19, 2012, the Department received timely case briefs from Blue Field and from the Petitioner in this proceeding, Monterey Mushrooms, Inc. (Monterrey Mushrooms).⁸ On April 24, 2012, Blue Field and Monterey Mushrooms submitted rebuttal briefs.⁹ On June 19, 2012, we extended the final results of this administrative review by 60 days.¹⁰

² *Id.*

³ *See id.* at 77 FR 13,264.

⁴ *See id.* at 77 FR 13,265-67.

⁵ *See id.* at 77 FR 13,265.

⁶ *See id.* at 77 FR 13,266-67.

⁷ *See id.* at 77 FR 13,269.

⁸ *See* April 19, 2012, letter from Shanghai Yuet Fai Commercial Consulting Co., Ltd. to Secretary of Commerce Re: Certain Preserved Mushrooms from the People's Republic of China, Blue Field Case Brief (Blue Field Case Brief); *see also* April 19, 2012, Petitioner Case Brief from Kelley Drye & Warren LLP (Petitioner Case Brief).

⁹ *See* April 24, 2012, Rebuttal Brief from Shanghai Yuet Fai Commercial Consulting Co., Ltd. to Secretary of Commerce Re: Certain Preserved Mushrooms from the People's Republic of China, Blue Field Case Brief (Blue Field Rebuttal Brief); *see also* April 24, 2012, Petitioner Rebuttal Brief from Kelley Drye & Warren LLP (Petitioner Rebuttal Brief).

¹⁰ *See* Memorandum from Richard Weible to Christian Marsh Re: Certain Preserved Mushrooms from the People's Republic of China: Extension of Deadlines for Final Results of Antidumping Duty Administrative Review, dated June 19, 2012.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this review are addressed in the memorandum entitled, “Issues and Decision Memorandum for the Final Results in the Administrative Review of Certain Preserved Mushrooms from the People’s Republic of China,” which is dated concurrently with and adopted by this notice (Issues and Decision Memorandum). A list of the issues raised, and to which we respond in the Issues and Decision Memorandum, is attached to this notice as an appendix. The Issues and Decision Memorandum is a public document and is on file electronically via Import Administration’s Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). IA ACCESS is available to registered users at <http://iaaccess.trade.gov> and in the Central Records Unit (CRU), room 7046 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the Internet at <http://www.trade.gov/ia/>. The signed Issues and Decision Memorandum and the electronic versions of the Issues and Decision Memorandum are identical in content.

Scope of the Order

The products covered by this order are certain preserved mushrooms, whether imported whole, sliced, diced, or as stems and pieces. The certain preserved mushrooms covered under this order are the species Agaricus bisporus and Agaricus bitorquis. “Certain Preserved Mushrooms” refers to mushrooms that have been prepared or preserved by cleaning, blanching, and sometimes slicing or cutting. These mushrooms are then packed and heated in containers including, but not limited to, cans or glass jars in a suitable liquid medium, including, but not limited to, water, brine, butter or butter sauce. Certain preserved mushrooms may be imported whole, sliced, diced, or as stems and pieces. Included within the scope of this order are “brined”

mushrooms, which are presalted and packed in a heavy salt solution to provisionally preserve them for further processing.¹¹

Excluded from the scope of this order are the following: (1) All other species of mushroom, including straw mushrooms; (2) all fresh and chilled mushrooms, including “refrigerated” or “quick blanched mushrooms;” (3) dried mushrooms; (4) frozen mushrooms; and (5) “marinated,” “acidified,” or “pickled” mushrooms, which are prepared or preserved by means of vinegar or acetic acid, but may contain oil or other additives.

The merchandise subject to this order is classifiable under subheadings: 2003.10.0127, 2003.10.0131, 2003.10.0137, 2003.10.0143, 2003.10.0147, 2003.10.0153, and 0711.51.0000 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheadings are provided for convenience and Customs purposes, the written description of the scope of this order is dispositive.

Changes Since the Preliminary Results

Based on a review of the record and comments received from interested parties regarding our *Preliminary Results*, we have made the following revisions to certain surrogate values (SVs) and the margin calculation for Blue Field and Xingda.

- 1) We revised our calculation of Blue Field’s land rent.¹²

¹¹ On June 19, 2000, the Department affirmed that “marinated,” “acidified,” or “pickled” mushrooms containing less than 0.5 percent acetic acid are within the scope of the antidumping duty order. See Recommendation Memorandum-Final Ruling of Request by Tak Fat, et al. for Exclusion of Certain Marinated, Acidified Mushrooms from the Scope of the Antidumping Duty Order on Certain Preserved Mushrooms from the People’s Republic of China, dated June 19, 2000. On February 9, 2005, the United States Court of Appeals for the Federal Circuit upheld this decision. See Tak Fat v. United States, 396 F.3d 1378 (Fed. Cir. 2005).

¹² See Memorandum From Michael J. Heaney to the File, Re Final Analysis for Blue Filed (Sichuan) Food Industrial Co., Ltd. (Blue Field) Certain Preserved Mushrooms from the People’s Republic of China dated September 4, 2012, (Blue Field Final Analysis Memorandum) at 1.

- 2) For Blue Field, we revised our calculation of the surrogate value for coal to include bituminous coal and corrected a conversion error in the calculation of that surrogate value.¹³
- 3) We corrected two calculation errors associated with the surrogate value of water for both Blue Field and Xingda.¹⁴
- 4) For Blue Field, we corrected the jar weight for one model.¹⁵

Separate Rates Determination

In the *Preliminary Results*, we found that (1) Ayecue (Liaocheng) Foodstuff Co., Ltd. (Ayecue), (2) Fujian Golden Banyan Foodstuffs Industrial Co., Ltd. (Golden Banyan), and (3) Shandong Jiufa demonstrated their eligibility for separate rates.¹⁶ We received no comments from interested parties on this finding. Therefore, in these final results, we continue to find that Ayecue, Golden Banyan, and Shandong Jiufa demonstrated an absence of government of control, both in law and in fact, with respect to these companies' exports of the subject merchandise. Thus, we have determined that Ayecue, Golden Banyan, and Shandong Jiufa are eligible to receive a separate rate. Consistent with our own practice and section 735(c)(5)(A) of the Tariff Act of 1930, as amended (the Act), respondents other than mandatory respondents have received the weighted-average of the margins calculated for those companies selected for individual review (*i.e.*, mandatory respondents), excluding zero or de minimis margins or margins based entirely on facts available.

¹³ See *Id.* at 2.

¹⁴ See *Id.*; see also Memorandum From Michael J. Heaney to the File, Re Final Analysis for Dujiangyan Xingda (Sichuan) Food Industrial Co., Ltd (Xingda) Certain Preserved Mushrooms from the People's Republic of China dated September 4, 2012 (Xingda Final Analysis Memorandum) at 2.

¹⁵ See Blue Field Final Analysis Memorandum at 3.

¹⁶ See *Preliminary Results*, 77 FR at 13266-13267.

Final Results of the Review

The Department has determined that the following dumping margins exist for the period February 1, 2010, through January 31, 2011:

Exporter	Weighted-Average Margin (Percent)
Blue Field	308.33
Xingda	223.74
Ayecue	304.89
Golden Banyan	304.89
Shandong Jiufa	304.89
PRC-wide rate*	198.63

*includes Zhangzhou Golden Banyan Foodstuffs Industrial Co., Ltd.

Assessment Rates

The Department has determined, and U.S. Customs and Border Protection (CBP) shall assess, antidumping duties on all appropriate entries.¹⁷ The Department intends to issue assessment instructions to CBP 15 days after the date of publication of these final results of review.

In accordance with 19 CFR 351.212(b)(1), we calculated exporter/importer-specific (or customer-specific) assessment rates for merchandise subject to this review. Blue Field and

¹⁷ See section 751(a)(2)(B) of the Act; 19 CFR 351.212(b)(1).

Xingda did not report entered values for their U.S. sales. Accordingly, we calculated a per-unit assessment rate for each importer (or customer) by dividing the total dumping margins for reviewed sales to that party by the estimated entered value that we calculated for those transactions. For duty-assessment rates calculated on this basis, we will direct CBP to assess the resulting per-unit rate against the calculated estimate of entered value of the subject merchandise.

For all shipments of subject merchandise by the PRC-wide entity entered, or withdrawn from warehouse, for consumption during the POR, we will instruct CBP to assess antidumping duties at the *ad valorem* PRC-wide entity rate of 198.63 percent.

Cash Deposit Requirements

The following cash deposit requirements, when imposed, will be effective upon publication of the final results of this review for all shipments of subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(2)(C) of the Tariff Act of 1930, as amended (the Act): (1) the cash-deposit rate for each of the reviewed companies that received a separate rate in this review will be the rate listed in the final results of this review (except that if the rate for a particular company is *de minimis*, i.e., less than 0.50 percent, no cash deposit will be required for that company); (2) for previously investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period of review; (3) if the exporter is a firm not covered in this review, a prior review, or the original less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the subject merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will be the PRC-wide rate of 198.63 percent. These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

Administrative Protective Order

This notice also serves as a reminder to parties subject to administrative protective orders (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305, which continues to govern business proprietary information in this segment of the proceeding. Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing this administrative review and notice in accordance with sections 751(a)(1) and 777(i) of the Act.

Ronald K. Lorentzen
Acting Assistant Secretary
for Import Administration

September 4, 2012
Date

Appendix

- Comment 1: FOP Database Used to Calculate Bluefield's Normal Value
- Comment 2: Calculation of Land Rent
- Comment 3: Valuation of Rice Straw
- Comment 4: Valuation of Manure
- Comment 5: Use of Indian Surrogate Values to Value Manure and Straw
- Comment 6: Valuation of Coal
- Comment 7: Valuation of Water

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